

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

December 1, 2021

TO: Persons on the Attached Mailing List

**RE: Docket No. 2021-1508-AIR
AmeriTex Pipe & Products, LLC (Applicant)
Request(s) filed on Permit No. 164317**

The above-referenced application and all timely filed hearing requests/requests for reconsideration on the above-referenced application will be considered by the commissioners of the Texas Commission on Environmental Quality (TCEQ) during the public meeting on **January 12, 2022**. The meeting will begin at 9:30 a.m. Due to the ongoing pandemic, the agenda meeting may be held in person in Room 201S of Building E at the Commission's offices located at 12100 Park 35 Circle in Austin, Texas, virtually, or both in person and virtually. To confirm how the meeting will be held, please visit the Commissioners' Agenda webpage at:

https://www.tceq.texas.gov/agency/decisions/agendas/comm/comm_agendas.html
eight days before the Agenda.

In accordance with commission rules, copies of the timely hearing requests/requests for reconsideration have been forwarded to the Applicant, the Executive Director of the TCEQ, and the Public Interest Counsel of the TCEQ. Each of these persons is entitled to file a formal written response to the hearing requests/requests for reconsideration on or before 5:00 p.m. on **December 13, 2021**. Persons who have filed timely hearing requests/requests for reconsideration may file a formal written reply to these responses on or before 5:00 p.m. on **January 3, 2022**.

All responses and replies must be filed with the Chief Clerk of the TCEQ. Responses and replies may be filed with the Chief Clerk electronically at www.tceq.texas.gov/goto/efilings or by filing an original and 7 copies with the Chief Clerk of the TCEQ. The mailing address of the Chief Clerk is: Office of Chief Clerk, ATTN: Agenda Docket Clerk, Mail Code 105, TCEQ, P. O. Box 13087, Austin, Texas 78711-3087 [Fax number (512) 239-3311]. On the same day any response is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, the Applicant, and the requesters at their addresses listed on the attached mailing list. On the same day any reply is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, other requesters, and the Applicant at their addresses listed on the attached mailing list.

The procedures for evaluating hearing requests/requests for reconsideration are located in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F (§§55.200-211) of the

commission's rules. The procedures for filing and serving responses and replies are located in 30 TAC Chapters 1 (§§1.10-11) and 55 (§55.209) of the commission's rules.

The hardcopy filing requirement is waived by the General Counsel pursuant to 30 TAC §1.10(h). Copies of these rules may be obtained by calling the Public Education Program toll free at 1-800-687-4040.

The commissioners will not take oral argument or additional comment on this matter at the public meeting. Therefore, it is important to address the sufficiency of the requests in timely filed written responses and requesters' replies. At the public meeting, the commissioners may ask questions of the Applicant, requesters, or TCEQ staff. The commissioners will make a decision on the request(s) during the meeting and will base that decision on the timely written requests, public comments, any written responses and replies, any responses to questions during the meeting, and applicable statutes and rules. Copies of all timely public comments and requests have been forwarded to the Alternative Dispute Resolution Program to determine if informal, voluntary mediation might help resolve any dispute.

The attachment to this letter is intended to help you better understand how the TCEQ processes and evaluates hearing requests and requests for reconsideration. To obtain additional information, or to ask questions about anything in this letter, please call the Public Education Program toll free at 1-800-687-4040.

Laurie Gharis

Chief Clerk

Enclosures: Copies of protestant correspondence to Applicant, Executive Director, Office of Public Interest Counsel, and Alternative Dispute Resolution.

ATTACHMENT

Procedures Concerning Requests for Reconsideration and Requests for Contested Case Hearing

The purpose of this document is to describe commission procedures for evaluating requests for reconsideration and requests for contested case hearing. This document is not intended to be a comprehensive guide to public participation at the TCEQ.

The three commissioners determine the validity of requests for reconsideration and requests for contested case hearing and vote to grant or deny the requests during a public meeting. These public meetings are usually held every other Wednesday in Austin. Prior to the meeting, the following occurs:

- (1) the written requests are distributed to the executive director, the public interest counsel, and the Applicant. These persons may file a response at least 23 days before the meeting;
- (2) the requester may then file a reply to the responses at least 9 days before the meeting. This is the requester's opportunity to address any deficiencies in the request that have been identified by TCEQ staff or the Applicant. The requester must submit any information he or she wishes the commissioners to consider (ex: maps or diagrams showing requester's location relative to the Applicant's proposed activities) by this deadline; and
- (3) the commissioners read the requests, the responses to requests, and the replies, before the public meeting. Then, during the public meeting, the commissioners vote to grant or deny the requests.

Requests for Reconsideration

A request for reconsideration must expressly state that the person is requesting that the commission reconsider the executive director's decision and state the reasons why the commission should reconsider the executive director's decision. The commission will consider a request for reconsideration at a scheduled public meeting and grant or deny the request.

Requests for Contested Case Hearing

A contested case hearing is an evidentiary proceeding, similar to a hearing in civil court. The law allows for holding a contested case hearing on certain types of applications.

A valid request for a contested case hearing must:

- (1) demonstrate that the requester is an "affected person" with a "personal justiciable interest" related to a legal right, duty, privilege, power or economic interest which would be affected by the application in a manner not common to the general public;

- (2) If the request is made by a group or association, the request must identify:
- (A) one person by name, address, daytime telephone number, and, if possible, the fax number, of the person who will be responsible for receiving all communications and documents for the group;
 - (B) the comments on the application submitted by the group that are the basis of the hearing request; and
 - (C) by name and physical address one or more members of the group that would otherwise have standing to request a hearing in their own right. The interests the group seeks to protect must relate to the organization's purpose. Neither the claim asserted nor the relief requested must require the participation of the individual members in the case.
- (3) expressly request a contested case hearing;
- (4) raise disputed issues of fact that are relevant and material to the commission's decision on the application which were raised **by the requestor** during the comment period and not withdrawn **by the requestor** prior to the filing of the Executive Director's Response to Comment; and
- (5) include any other information as specified in public notices.

The commission is authorized to protect human health and safety, and natural resources. The commission cannot address other matters outside the commission's authority, such as the effect of the existence of a proposed facility on nearby property values.

When the commissioners deny hearing requests, they often proceed to vote on approval or denial of the application. Alternatively, they may remand the application to the executive director for final action. If a hearing request is granted and the application is referred to the State Office of Administrative Hearings (SOAH), the commissioners will specify a list of issues which will be the subject of the hearing and an expected date for the SOAH judge's proposal for decision. Pursuant to 30 TAC § 80.118(d), if a matter is referred to SOAH by the Commission for hearing, the Applicant shall provide to the Chief Clerk two duplicates of the original application, including all revisions to the application, for inclusion in the administrative record, no later than 10 days after the Chief Clerk mails the Commission's Order referring the matter to SOAH. The SOAH judge will conduct the hearing and submit a proposal to the commission to approve or deny the application.

The Alternative Dispute Resolution Program may contact requesters to determine their interest in informal discussions with the permit Applicant and a mediator.

By necessity this document gives a very general description of commission procedures. If you have any questions, please call the Public Education Program toll free at 1-800-687-4040.

MAILING LIST
AMERITEX PIPE & PRODUCTS, LLC
DOCKET NO. 2021-1508-AIR; PERMIT NO. 164317

FOR THE APPLICANT:
via electronic mail:

Keith A. Courtney
McGINNIS LOCHRIDGE
1111 West 6th Street
Building. B, Suite 400
Austin, Texas 78703
Tel: (512) 495-6188
Fax: (512) 505-6388
kcourtney@mcginnislaw.com

Rocky Lorenz, Chief Operating Officer
AmeriTex Pipe & Products, LLC
P.O. Box 150
Seguin, Texas 78156
Tel: (830) 372-2300
Fax: (830) 372-2303
rocky@ameritexpipe.com

Eric Shelander, Environmental Specialist
Westward Environmental, Inc.
P.O. Box 2205
Boerne, Texas 78006
Tel: (830) 249-8284
Fax: (830) 249-0221
eshelander@westwardenv.com

FOR THE EXECUTIVE DIRECTOR
via electronic mail:

Betsy Peticolas, Staff Attorney
Amanda Kraynok, Staff Attorney
Texas Commission on Environmental
Quality
Environmental Law Division, MC-173
P.O. Box 13087
Austin, Texas 78711
Tel: (512) 239-0600
Fax: (512) 239-0606
betsy.peticolas@tceq.texas.gov
amanda.kraynok@tceq.texas.gov

Don Nelon, Technical Staff
Texas Commission on Environmental
Quality
Air Permits Division, MC-163
P.O. Box 13087
Austin, Texas 78711
Tel: (512) 239-0894
Fax: (512) 239-7815
don.nelon@tceq.texas.gov

Ryan Vise, Deputy Director
Texas Commission on Environmental
Quality
External Relations Division
Public Education Program, MC-108
P.O. Box 13087
Austin, Texas 78711
Tel: (512) 239-4000
Fax: (512) 239-5678
pep@tceq.texas.gov

FOR PUBLIC INTEREST COUNSEL

via electronic mail:

Vic McWherter, Public Interest Counsel
Texas Commission on Environmental
Quality
Public Interest Counsel, MC-103
P.O. Box 13087
Austin, Texas 78711
Tel: (512) 239-6363
Fax: (512) 239-6377
vic.mcwherter@tceq.texas.gov

FOR ALTERNATIVE DISPUTE
RESOLUTION

via electronic mail:

Kyle Lucas
Texas Commission on Environmental
Quality
Alternative Dispute Resolution, MC-222
P.O. Box 13087
Austin, Texas 78711
Tel: (512) 239-0687
Fax: (512) 239-4015
kyle.lucas@tceq.texas.gov

FOR THE CHIEF CLERK:

Docket Clerk
Texas Commission on Environmental
Quality
Office of Chief Clerk, MC-105
P.O. Box 13087
Austin, Texas 78711
Tel: (512) 239-3300
Fax: (512) 239-3311
<https://www14.tceq.texas.gov/epic/eFiling/>

REQUESTER(S) / INTERESTED
PERSON(S):

See attached list.

REQUESTER(S)

Deirdre Diamond
123 Bledsoe Rd
Gunter, TX 75058

Deirdre Diamond
2711 Rochelle Dr
Mckinney, TX 75070-4244

Connie Jo Eubanks
105 Beavers Bend Dr
Gunter, TX 75058-2561

Don Everingham
Enchanted Oaks Ranch
601 Pfeiffer Rd
Bulverde, TX 78163-4022

Bryan Hemman
2117 Austin Ln
Prosper, TX 75078-1658

Don Hunter
1273 Wall Street Rd
Gunter, TX 75058-2041

Linda K Hunter
1273 Wall Street Rd
Gunter, TX 75058-2041

Emily Lewis
Po Box 1147
Prosper, TX 75078-1147

Linda Mcallister
467 Vaughan Ln
Tioga, TX 76271-9770

Nick Owens
121 Lazy S Ranch Rd
Gunter, TX 75058-4143

Timothy Mark Peery
10620 Signal Hill Rd
Austin, TX 78737-9619

Christina Peyton
2025 Fox Bend Trce
Gunter, TX 75058-4206

Jessica Seay
240 Sharp Rd
Gunter, TX 75058-4165

Michael Spano
152 Silverado Dr
Georgetown, TX 78633-5640

Wendy Wright
615 Vista View Trl
Spicewood, TX 78669-8435

WITHDRAW OF REQUEST(S)

Cheyrl Cohagan
1128 Stonebridge Pass
Gunter, TX 75058-4235

Adam M Friedman
Mcelroy Sullivan Miller & Weber Llp
1201 Spyglass Dr
Ste 200
Austin, TX 78746-6925

Adam M Friedman
Mcelroy Sullivan Miller & Weber Llp
Po Box 12127
Austin, TX 78711-2127

PUBLIC OFFICIALS - INTERESTED PERSON(S)

The Honorable Reggie Smith
State Representative, Texas House of
Representatives District 62
421 N Crockett St
Sherman, TX 75090-0019

The Honorable Reggie Smith
State Representative, Texas House of
Representatives District 62
Po Box 2910
Austin, TX 78768-2910

The Honorable Drew Springer Jr
State Senator, The Senate of Texas District
30
406 E California St
Gainesville, TX 76240-4102

The Honorable Drew Springer Jr
State Senator, The Senate of Texas District
30
Po Box 12068
Austin, TX 78711-2068

INTERESTED PERSON(S)

Alison Atyia
149 Whispering Winds Dr
Gunter, TX 75058-2560

Sandra Atyia
Po Box 7
Seminole, OK 74818-0007

Lori Ault
458 Red Maple Rd
Gunter, TX 75058-4289

Lee Banse
Mcelroy Sullivan
1201 Spyglass Dr
Ste 200
Austin, TX 78746-6925

Lauren Boyechko
105 Hillside Dr
Celina, TX 75009-6307

Amy Burtsfield
109 Arrowhead Dr
Gunter, TX 75058-2557

Mrs Tara Campbell
14135 Routt Forest Trl
Conroe, TX 77384-5627

Andrea Douglas
154 Whispering Winds Dr
Gunter, TX 75058-2556

Demarcus Douglas
154 Whispering Winds Dr
Gunter, TX 75058-2556

Kristi Eft
1410 Cypress Point Dr
Gunter, TX 75058-3233

Mr Fred Goodwin Iii
1445 Bledsoe Rd
Gunter, TX 75058-3124

Earl Haeg
1452 Brewer Ln
Celina, TX 75009-3830

Jennifer Haeg
1452 Brewer Ln
Celina, TX 75009-3830

Katie Hayes
2221 Arbol Way
Prosper, TX 75078-0289

Casey Hubbard
Po Box 343
Gunter, TX 75058-0343

Dr. Laura T Hunt
2941 American Sparrow Dr
Midlothian, TX 76065-1787

Colin Drew Hunter
1273 Wall Street Rd
Gunter, TX 75058-2041

Woodwell Jennifer
744 Reed Ln
Gunter, TX 75058-2156

Dee Dee Johnston
4001 E Us Highway 90
Seguin, TX 78155-1509

Kendra Killingsworth
5716 Autumn Trl
Celina, TX 75009-0018

Mrs Renee Kincheloe
102 Beavers Bend Dr
Gunter, TX 75058-2570

Janelle Krivoruk
581 Vaughan Ln
Tioga, TX 76271-9720

Emily Lewis
624 Lukehaven Dr
Pottsboro, TX 75076-3924

Carrie Martin
11305 Deep Canyon Trl
Frisco, TX 75033-1509

William L Mccabe
15 Links Side Ct
Kingwood, TX 77339-3765

Mrs Lauren Miller
258 Cypress Point Dr
Gunter, TX 75058-3247

Joe D Moore
290 County Road 2487
Mineola, TX 75773-6866

Mrs Krista Pace
1405 Taylor Ct
Gunter, TX 75058-4254

Mary Cook Wright
1313 Ash St
Commercer, TX 75428-2511

Scott Pace
1405 Taylor Ct
Gunter, TX 75058-4254

Laura Raetchi
2700 Ocaso Dr
Little Elm, TX 75068-7311

Kendra Riffe
Po Box 843
Gunter, TX 75058-0843

Mr John Robert Rowe
322 Red Maple Rd
Gunter, TX 75058-4203

Lindsey Santee
1802 Turtle Creek Ln
Gunter, TX 75058-4230

Ann-Marie Schaefer
1812 Templegate Dr
Mckinney, TX 75072-7154

Barbara Schmidt
Po Box 136
Kingsland, TX 78639-0136

Ms Melissa Schramme
105 Garvin Way
Midlothian, TX 76065-3044

Julia Todd
1109 Indigo Creek Way
Gunter, TX 75058-4260

Amber M Weber
2115 Bledsoe Rd
Gunter, TX 75058-3015

Mrs Sandra L Wells
2500 E 15Th St
Edmond, OK 73013-7601

Corey Williams
2520 Caroline St
Houston, TX 77004-1000

Mary Williams
247 Highland Dr
Lindale, TX 75771-2628